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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,152	12/04/2001	Yoram Nelken	PA2325	3645
22830	7590	01/07/2005	EXAMINER	
CARR & FERRELL LLP 2200 GENG ROAD PALO ALTO, CA 94303			DAVIS, GEORGE B	
			ART UNIT	PAPER NUMBER
			2121	

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/008,152	NELKEN, YORAM	
	<b>Examiner</b>	<b>Art Unit</b>	
	George Davis	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 29 March 2004.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-48, 51-59, 63, 64, 66 and 67 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 63 and 64 is/are allowed.  
 6) Claim(s) 1-48, 51-59, 66 and 67 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

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## DETAILED ACTION

### *Claim Rejections - 35 U.S.C. § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17, 35-43, 51-53, 57-59 and 66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 35 recite the limitation "said prioritized communications". There is insufficient antecedent basis for this limitation in the claims.

Claims 66 and 67 recite the limitation "the items prioritized" in the last line. There is insufficient antecedent basis for this limitation in the claims.

### *Claim Rejections - 35 U.S.C. § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

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The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-9, 11-26, 28-42, 44-46, 51-59 and 66 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hanzek, U.S. Pat. No. 6,654,726 B1.

As per claim 1, Hanzek discloses a contact center configured to receive said communications (abstract, lines 1-4, figure 11 and column 15, lines 38-48), a decision engine configured to determine a priority code for each of said received communications (figure 11, device 962, figure 25B, device 1626 and column 23, lines 60-62) and at least one queue configured to store said prioritized communications in order of priority code (figure 11, device 612 and column 15, lines 53 and 54).

As per claim 2, Hanzek discloses said decision engine includes a parser configured to analyze content of said received communications (figure 11, device 972 and column 15, lines 62-67).

As per claim 3, Hanzek discloses said communications include text communications (figure 11) and said decision engine includes a parser configured to parse text of said text communications (figure 11, device 972 and column 15, lines 62-67).

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As per claim 4, Hanzek discloses said text communications contain natural language that is parsed by said parser (column 12, lines 62-67).

As per claim 5, Hanzek discloses said parser identifies concepts of said received communications (figure 11).

As per claim 6, Hanzek discloses said parser identifies relationships between said concepts (figure 11).

As per claim 7, Hanzek discloses said decision engine compares said concepts with priority, criteria to determine said priority codes (figure 11 and figure 25B, column 23, lines 60-62).

As per claim 8, Hanzek discloses said parser analyzes said received communications by identifying keywords in said received communications (abstract, lines 1-4 and figure 11).

As per claim 9, Hanzek discloses said communications are received by said contact center via a text-based communication channel (abstract, lines 1-4 and figure 2, device 130 and figure 11).

As per claim 11, Hanzek discloses an agent having a judgment of priority selects prioritized communications from said queue according to said judgment of priority (figures 2, 11 and 25B).

As per claim 12, Hanzek discloses a monitoring module configured to monitor communications selected by said agent and to provide said selected communications and priority

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codes of said selected communications as feedback to said decision engine (figure 2 and figure 11).

As per claim 13, Hanzek discloses said decision engine utilizes said feedback to adjust priority criteria used to determine priority of said received communications (figures 2, 11 and 25B).

As per claim 14, Hanzek discloses said decision engine includes a parser configured to parse said received communications and a priority module configured to receive parsed communications from said parser and determine said priority code for each of said parsed communications (figure 11 and figure 2, device 130).

As per claim 15, Hanzek discloses said priority module is a learning system and receives feedback from a monitoring module treat monitors communications selected from said queue by at least one agent (figure 11 and figure 2).

As per claim 16, Hanzek discloses said priority module is a rule-based system that determines said priority code according to a set of predetermined rules (column 15, lines 60-67).

As per claim 17, Hanzek discloses said priority code is determined in accordance with priority guidelines established by a user of said system (figure 2, 11 and 25B).

As per claim 18, Hanzek discloses a contact center configured to receive said tasks (abstract, lines 1-4, figure 11 and column 15, lines 38-48), a decision engine configured to determine a priority code for each of said tasks (figure 11, device 962, figure 25B, device 1626

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and column 23, lines 60-62) and at least one queue configured to store said tasks in order of priority code (figure 11, device 612 and column 15, lines 53 and 54).

As per claim 19, Hanzek discloses said decision engine includes a parser configured to analyze content of said tasks (figure 11, device 972).

As per claim 20, Hanzek discloses said decision engine includes a parser configured to parse text of said tasks (figure 11, device 972).

As per claim 21, Hanzek discloses said tasks contain natural language that is parsed by said parser (figure 11, device 972).

As per claim 22, Hanzek discloses said parser identifies concepts of said tasks (figure 11, device 972 and column 15, lines 60-67).

As per claim 23, Hanzek discloses said parser identifies relationships between said concepts (figure 11, device 972).

As per claim 24, Hanzek discloses said decision engine compares said concepts with priority criteria to determine said priority codes (figures 11 and figure 25B, column 23, lines 60-62).

As per claim 25, Hanzek discloses said parser analyzes said tasks by identifying keywords in said tasks (abstract, lines 1-4 and figure 11).

As per claim 26, Hanzek discloses said tasks are received by said contact center via a text based communication channel (abstract, lines 1-4 and figure 2, device 130 and figure 11).

As per claim 28, Hanzek discloses an agent having a judgment of priority selects tasks

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from said queue according to said judgment of priority (figures 2, 11 and 25B).

As per claim 29, Hanzek discloses monitoring module configured to monitor tasks selected by said agent and to provide said selected tasks and priority codes of said selected tasks as feedback to said decision engine (figure 2 and figure 11).

As per claim 30, Hanzek discloses said decision engine utilizes said feedback to adjust priority criteria used to determine priority of said tasks (figures 2, 11 and 25B).

As per claim 31, Hanzek discloses said decision engine includes a parser configured to parse said tasks and a priority module configured to receive parsed tasks from said parser and determine said priority code for each of said tasks (figure 11 and figure 2, device 130).

As per claim 32, Hanzek discloses said priority module is a learning system and receives feedback from a monitoring module that monitors tasks selected from said queue by at least one agent (figure 11 and figure 2).

As per claim 33, Hanzek discloses said priority module is a rule-based system that determines said priority code according to a set of predetermined rules (column 15, lines 60-67).

As per claim 34, Hanzek discloses said priority code is determined in accordance with priority guidelines established by a user of said system (figures 2 and 11).

As per claim 35, Hanzek discloses receiving said communications (abstract, lines 1-4, figure 11 and column 15, lines 38-48), determining a priority code for each of said received communications (figure 11, device 962, figure 25B, device 1626 and column 23, lines 60-62) and

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storing said prioritized communications in at least one queue according to priority code (figure 11, device 612 and column 15, lines 53 and 54).

As per claim 36, Hanzek discloses the step of determining a priority code includes analyzing content of said received communications (figure 11, device 972).

As per claim 37, Hanzek discloses the step of determining a priority code includes parsing text of said received communications (figure 11, device 972).

As per claim 38, Hanzek discloses said text of said received communications contains natural language (figure 11, device 972).

As per claim 39, Hanzek discloses analyzing content of said communications includes identifying concepts of said received communications (figure 11, device 972 and column 15, lines 60-67).

As per claim 40, Hanzek discloses the step of determining said priority code includes comparing said concepts with priority criteria (figures 11 and figure 25B, column 23, lines 60-62).

As per claim 41, Hanzek discloses analyzing said received communications includes identifying keywords (abstract, lines 1-4 and figure 11).

As per claim 42, Hanzek discloses said communications are received via a text-based communication channel (abstract, lines 1-4 and figure 2, device 130 and figure 11).

As per claim 44, Hanzek discloses an agent having a judgment of priority selects communications from said queue according to said judgment of priority (figures 2, 11 and 25B).

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As per claim 45, Hanzek discloses the step of monitoring communications selected by said agent and utilizing said selected communications and priority codes of said selected communications as feedback (figure 2 and figure 11).

As per claim 46, Hanzek discloses utilizing said selected communications and said priority codes includes adjusting priority criteria used to determine priorities of said communications (figures 2, 11 and 25B).

As per claim 51, Hanzek discloses the decision engine is capable of learning new priority criteria based on a relative importance of communications learned from an order in which an agent selected communications (figure 11 and figure 2).

As per claim 52, Hanzek discloses the priority codes are determined according to rules for prioritizing communications (column 15, lines 60-67).

As per claim 53, Hanzek discloses the priority codes are assigned to communications without an assigned priority (figures 11, 2 and 5B).

As per claim 54, Hanzek discloses the decision engine is capable of learning new priority criteria based on a relative importance of tasks learned from an order in which an agent selected tasks (figures 11 and 2).

As per claim 55, Hanzek discloses the priority codes are determined according to rules for prioritizing tasks (column 15, lines 60-67).

As per claim 56, Hanzek discloses the priority codes are assigned to tasks without an assigned priority (figures 11, 2 and 25B).

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As per claim 57, Hanzek discloses learning new priority criteria based on a relative importance of communications learned from an order in which an agent selected communication (figures 11 and 2).

As per claim 58, Hanzek discloses the determining is performed using rules for prioritizing communications (column 15, lines 60-67).

As per claim 59, Hanzeka discloses the priority codes are assigned to communications without an assigned priority (figures 11, 2 and 5B).

As per claim 66, Hanzek discloses receiving items, which are communications or tasks that do not have a previously assigned priority (abstract, lines 1-4, figure 11 and column 15, lines 38-48), automatically learning a new priority rule based on an order in which an agent selected the items (figures 11 and 2), automatically determining priority codes for the items using the new priority rule (figure 11, devices 962 and 972, figure 25B, device 1626 and column 23, lines 60-62) and storing the items prioritized in at least one queue according to the priority code (figure 11, device 612 and column 15, lines 53 and 54).

### ***Claim Rejections - 35 U.S.C. § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 10, 27, 43, 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanzek, U.S. Pat. No. 6,654,726 B1.

Hanzek discloses decision engine with parser receive text messages but not voice messages. However, voice messages is well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to sent text messages and voice messages to the decision engine in order to expose the engine to wide varieties of consumers.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CAR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CAR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CAR 3.73(b).

Claims 1, 12, 15, 18, 29, 35 and 46 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,408,277 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed invention in this application recite priority code while the

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claim 1 in the patent recite priority. The priority in claim of the patent should be priority code because the specification recite the phrase “priority code” not priority by it self. Also the claims invention in application recites “receiving communication” while claim 1 in the patent recite “receiving tasks”. Reading the specification and one of ordinary skill in the art can receiving tasks and receiving communication are the same. Therefore, it would have been obvious to one of ordinary skill of the art at the time the invention was made to configure a device to receive tasks or communications because both means the same or a decision engine to determine priority or priority code because the decision engine would give the same result despite using two different phrases.

***Allowable Subject Matter***

5. Claim 67 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

6. Claims 63 and 64 are allowed.

7. The following is an examiner's statement of reasons for allowance:

The prior art (Hanzek) teaches rule base system that is isolated and does not refer or relate to learning (column 15, lines 60-62). However, the claimed invention recites a rule based system which communicate with a learning system (page 4, lines 5-12). Therefore, the prior art (Hanzek) fails to teach or fairly suggest rule base system working with learning system.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

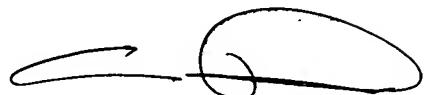
***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Davis whose telephone number is (571) 272-3683. The examiner can normally be reached on Monday through Thursday from 8:00 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight, can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7240.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

September 23, 2004



GEORGE B. DAVIS

PRIMARY PATENT EXAMINER